

EXHIBIT 1

CONTAINS CONFIDENTIAL OR HIGHLY CONFIDENTIAL
INFORMATION SUBJECT TO PROTECTIVE ORDER

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

1) VIDEO GAMING TECHNOLOGIES, INC.,)
))
))
Plaintiff,)
))
v.) Case No. 4:17-cv-00454-GKF-JFJ
))
1) CASTLE HILL STUDIOS LLC)
(d/b/a CASTLE HILL GAMING);)
2) CASTLE HILL HOLDING LLC)
(d/b/a CASTLE HILL GAMING); and)
3) IRONWORKS DEVELOPMENT, LLC)
(d/b/a CASTLE HILL GAMING))
))
Defendants.)

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**PLAINTIFF’S SIXTH SUPPLEMENTAL OBJECTIONS AND RESPONSES TO
DEFENDANT CASTLE HILL STUDIO LLC’S
FIRST SET OF INTERROGATORIES (NOS. 1-13)**

Pursuant to Federal Rule of Civil Procedure 33, Plaintiff Video Gaming Technologies, Inc. (“VGT”) provides these supplemental objections and responses to the First Set of Interrogatories of Defendant Castle Hill Studio LLC (collectively with the other defendants, “CHG”) (the “Interrogatories”), which supplement its initial responses that were served on November 22, 2017, its first supplemental responses that were served on December 27, 2017, its second supplemental responses that were served on March 16, 2018, its third supplemental responses that were served on June 5, 2018, its fourth supplemental responses that were served on July 9, 2018, and its fifth supplemental responses that were served on July 29, 2018.

PRELIMINARY STATEMENT

In responding to these Interrogatories, VGT does not concede the relevance, materiality, or admissibility of any Interrogatory. VGT’s response to each Interrogatory is made subject to

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VGT incorporates its earlier objections and response to this interrogatory. Subject to and without waiving its objections, VGT further responds as follows:

VGT refers CHG to Bates numbers VGT0030259-0317, VGT0030678-0727, and VGT0053096-098 from which CHG may determine additional information responsive to this interrogatory.

INTERROGATORY NO. 12:

As to each incident known to you of a person having been confused, mistaken, or deceived as to the source of Plaintiff's or Defendant's products, identify each person involved, the dates and reasons for the confusion, the goods or services confused, and any notice received or record made of the confusion.

OBJECTIONS AND RESPONSE TO INTERROGATORY NO. 12:

VGT incorporates the General Objections stated above as if set forth fully herein and in particular objects to this request as overly broad, unduly burdensome, vague, and ambiguous, including to the extent that it is not limited to the VGT Marks and VGT Trade Dress. Subject to and without waiving the preceding general and specific objections, VGT responds as follows:

VGT states that CHG's infringement of the VGT Marks and VGT Trade Dress has led to actual confusion. VGT identifies examples of incidents of confusion below. VGT reserves the right to supplement its response to identify additional incidents.

- The first incident happened within the past two years and involved Craig Eubanks (Tech II at VGT), who was filling in for the regular service technician at Choctaw Casino in Poteau, Oklahoma. The last time Mr. Eubanks had been at the casino, the bank of VGT games was to the left of the door. When he walked in the door, he saw that the third game from the left had an error message. He noticed that the game was not one that he had seen before, and he was excited at the opportunity to work on a

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new game. But when Mr. Eubanks opened the door to the machine and started looking at the parts inside, he noticed that some parts were in a different position from other games on which he had worked, so he closed the door to look at the artwork on the game. It was at this point that he noticed the Castle Hill logo and realized that it was not a VGT game. Mr. Eubanks immediately called the casino manager (Laura Bailey, who was second in charge after the site manager) to apologize, and the casino manager laughed and said something to the effect they had made the same mistake.

- Mr. Eubanks was also involved in a second incident – this one within the past year or so at Choctaw Casino in Pocola, Oklahoma. There, Candace Williams (a floor technician who had been working at the casino for a few years) asked Mr. Eubanks to fix a game. Ms. Williams identified the broken game as being in a bank location that Mr. Eubanks did not recognize, so he followed her to the location. When Mr. Eubanks saw the game, he told Ms. Williams that it was a CHG game, not a VGT game. Ms. Williams responded to the effect that the cabinet looked like a VGT cabinet, and Mr. Eubanks agreed with her.
- Another incident occurred at the first Oklahoma Indian Gaming Association (“OIGA”) annual conference and trade show where Castle Hill showed its games, which Jim Marcum (Sales Account Manager at VGT) and Josh Akins (Senior Sales Account Manager at VGT) believe was in 2015. In the weeks before OIGA that year, William Harvey (Product Owner at VGT at the time) asked to shadow Mr. Marcum and Mr. Akins at the trade show, and they agreed to let him do so. When the day came, Mr. Marcum and Mr. Akins were waiting in the VGT booth for Mr. Harvey.

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- When Mr. Harvey arrived at the booth, he apologized and said something along the lines of “I went to our other booth.” When Mr. Marcum and Mr. Akins asked Mr. Harvey to what other booth he was referring, Mr. Harvey said something like “it’s right over there” and pointed to Castle Hill’s booth. Mr. Marcum and Mr. Akins noted Mr. Harvey’s mistake, to which Mr. Harvey said something along the lines of “Their games look just like ours. How can they get away with that?”
- In May 2016, users on Jokers Wild Forum were discussing the opening of a new casino in Livingston, Texas called Naskila Entertainment. *See* <http://jokerswildforum.com/showthread.php?2542-A-new-casino-in-Texas!> (VGT0001673 – VGT0001687). User “KimKyle” said that he or she hoped the new casino would have “some red screen machines since it seems that people do well on those,” but also noted that he or she did not “see any red lucky ducks in the pics” that the casino had posted on Facebook. User “Brandon” responded to KimKyle, “I checked them out and I do think I see some VGT \$1 machines in one of the pics on the right wall,” and posted a photograph showing the games that he apparently believed belonged to VGT. After KimKyle visited the casino, he or she posted: “I played the dollar reels hoping that they were red screen machines (I couldn’t tell), but I never got more than a cherry.” KimKyle then replied to Brandon’s post and said, “Thanks Brandon, I think so to, but I forgot to look at the brand. I tried them just a bit but never even got a line hit. When I looked at the pays it only showed the bingo patterns, so I wasn’t sure.” Later that same day, a third user named “Warren” commented that “VGT wasn’t one of the manufacturers that I heard they have... I did hear they have some Castle Hill Gaming <http://www.castlehillgaming.com/> Castle

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Hill Gaming was started by some ex VGT folks and the games look very similar. Not sure how similar they play, but I would guess pretty close.” At that point, KimKyle seems to have realized that the games he or she played belonged to CHG, not VGT, and said, “Thanks @Warren . [sic] That’s the ones they have. I forgot to look at manufacturers but I will next time.”

- Another incident occurred in Spring 2017 at Choctaw Casino in Durant, Oklahoma. There, James Starr (Executive Vice President of Sales at VGT) and Mr. Marcum were standing in the high-limit section of the casino near the bar when Mr. Starr saw a bank of games that he thought were VGT’s. When Mr. Starr said something along the lines of “those games look pretty good. I didn’t know we had those,” Mr. Marcum corrected Mr. Starr and told him that those games belonged to CHG, not VGT.
- On July 30, 2017, Naskila Gaming, a new casino in Livingston, Texas, posted three photos of players who had recently won jackpots on CHG games to its Facebook page. *See* <https://www.facebook.com/naskilagaming/posts/1795969217098588> (VGT0001661 – VGT0001672). A Facebook user named Dana Ramsey-Keblish commented on the post, “Looks like I need to come play some VGT.” Another Facebook user named Steven Hieronymus corrected this mistake by replying, “Castle Hill - CHG.”

FIRST SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 12:

VGT incorporates its earlier objections and response to this interrogatory. Subject to and without waiving its objections, VGT further responds as follows:

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VGT refers CHG to Bates numbers VGT0006762-769 and VGT0007561-62 from which CHG may determine additional information responsive to this interrogatory.

Furthermore, below are additional examples of incidents of confusion. VGT reserves the right to supplement its response to identify additional incidents.

- Sometime in 2015, Rich Schneider (Chief Product Office for Aristocrat who served as VGT Interim President) went to Choctaw Casino in Durant, Oklahoma to assist with one of the first installations of VGT games after Aristocrat acquired VGT. While there, Mr. Schneider saw CHG's games for the first time and thought the CHG games were VGT games.
- On September 2, 2015, Mr. Marcum sent Mr. Schneider and several VGT employees four photographs of the CHG game New Money. After looking at the photos, Mr. Schneider, thinking that New Money was a VGT game, responded "Good stuff," meaning to congratulate Mr. Marcum on the look of the new game. Shortly thereafter, Mr. Schneider saw another email that made clear that New Money actually belonged to CHG, not VGT, and Mr. Schneider responded again, "Looked at them on my phone.....I thought they were our games....." (VGT refers CHG to Bates numbers VGT0007569-573 from which CHG may determine additional information responsive to this interrogatory.)
- On April 26, 2017, Tracer Hamilton (Senior Assistant General Manager at Lucky Star Casino at the time) and Mannix Barnes (General Manager at Lucky Star Casino at the time) were at Choctaw Casino in Durant, Oklahoma for a National Indian Gaming Commission meeting. While walking through the casino floor, Mr. Hamilton decided to play a bank of eight machines that looked appealing. One of the games had a

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theme that made Mr. Hamilton think it was a newer version of VGT's Mr. Money Bags game. While Mr. Hamilton was playing the game, the game entered a bonus mode in which the reels turned red. The next day, thinking that the game he had played belonged to VGT, Mr. Hamilton called Paul Pope (salesperson at VGT) to express interest in getting the same game installed at Lucky Star. Because Mr. Pope was unsure to which game Mr. Hamilton was referring, Mr. Hamilton sent a follow-up email, which said, "I think it was a 'Hot Cash' it was a \$2 bank of eight at Choctaw in Durant, I'm not sure if that helps you any." A few VGT employees discussed the request internally and realized that CHG uses a topper that says "Hot Cash," whereas VGT does not, and that Mr. Hamilton's description sounded like CHG's New Money game. Mr. Pope then informed Mr. Hamilton that he believed Mr. Hamilton had made a mistake and that he believed the game Mr. Hamilton had played did not belong to VGT. (VGT refers CHG to Bates numbers VGT0007594-95 from which CHG may determine additional information responsive to this interrogatory.)

- Sometime in Spring or Summer 2017, Mickey Ward (Senior Director of Corporate Gaming at Cherokee Nation Entertainment) was at Osage Casino in Bartlesville, Oklahoma conducting regular investigation of his competitor's offerings. As Mr. Ward was walking around the casino floor, he saw a game called New Money that he thought was a new version of VGT's Mr. Money Bags and a game called Arctic Cash or Arctic Ice that he also thought looked like a new version of a VGT game. While at the casino, Mr. Ward called Mr. Akins at VGT to ask why Mr. Akins was "holding out on" him and had not told him about the New Money game title. Mr. Akins asked

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if Mr. Ward was being serious or joking. Mr. Ward said he was being serious, and Mr. Akins told him that New Money was made by CHG, not VGT. Mr. Ward apologized for his mistake and said he honestly thought New Money was a VGT game. (VGT refers CHG to Bates numbers VGT0006767-69 from which CHG may determine additional information responsive to this interrogatory.)

SECOND SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 12:

VGT incorporates its earlier objections and response to this interrogatory. Subject to and without waiving its objections, VGT further responds as follows:

VGT refers CHG to Bates numbers VGT0030117, VGT0053034-35, and CHG0014657 from which CHG may determine additional information responsive to this interrogatory.

With respect to the incident that occurred on April 26, 2017 involving Tracer Hamilton, VGT revises the description of this incident to the following:

- On April 26, 2017, Tracer Hamilton (Senior Assistant General Manager at Lucky Star Casino at the time) and Mannix Barnes (General Manager at Lucky Star Casino at the time) were at Choctaw Casino in Durant, Oklahoma for a National Indian Gaming Commission meeting. While walking through the casino floor, Mr. Hamilton decided to play a bank of eight machines that looked appealing. One of the games was called New Money and had a theme that made Mr. Hamilton think it was a newer version of VGT's Mr. Money Bags game. While Mr. Hamilton was playing the game, the game entered a bonus mode in which the reels turned red. The next day, thinking that the game he had played belonged to VGT, Mr. Hamilton emailed Paul Pope (salesperson at VGT) to express interest in getting the New Money game installed at Lucky Star. A few VGT employees discussed the request internally and realized that CHG makes

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a game called “New Money,” whereas VGT does not, and that Mr. Hamilton’s description sounded like CHG’s New Money game. Mr. Pope then informed Mr. Hamilton that he believed Mr. Hamilton had made a mistake and that he believed the game Mr. Hamilton had played did not belong to VGT. (VGT refers CHG to Bates numbers VGT0007594-95 from which CHG may determine additional information responsive to this interrogatory.)

Furthermore, below are additional examples of incidents of confusion. VGT reserves the right to supplement its response to identify additional incidents.

- Sometime in 2017, Connie Hollingsworth (Design Specialist/Mechanical Drafter at McElroy Manufacturing) and her husband Rob Hollingsworth (Director of Logistics at VGT) were playing games at One Fire Casino in Okmulgee, Oklahoma. At one point, Mrs. Hollingsworth started playing a game that she thought was in VGT’s Crazy Bill series of games. After she’d been playing the game for about 10 minutes, Mr. Hollingsworth came over, and she asked him why the game was not paying out. He told her that the game was made by CHG, not VGT, so she moved to a VGT game.
- In March 2018, Sheldon Watkins (Regional Manager of Field Services at VGT) was at Choctaw Casino in Pocola, Oklahoma when he saw a game with an error message that he thought was a VGT game. He asked the VGT game technicians who were also at the casino that day to fix the game, but when one of the technicians, Mr. Eubanks, went to investigate, Mr. Eubanks realized that the game belonged to CHG, not VGT. Mr. Eubanks told Mr. Watkins that he could not fix the game, so Mr.

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Watkins and one of the other VGT game technicians—Steven Stanart—went over to the game and similarly realized that the game belonged to CHG, not VGT.

- On January 9, 2018, Alan Roireau (Chief Development Officer of CHG) sent Rich Sisson (Artist at CHG) a list of CHG games and asked Mr. Sisson if any titles were missing. Mr. Sisson responded that Crazy Cherry was missing, but Crazy Cherry is made by VGT, not CHG. CHG makes a game called Amazing Cherry.

THIRD SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 12:

VGT incorporates its earlier objections and response to this interrogatory. Subject to and without waiving its objections, VGT further responds as follows:

VGT refers CHG to Bates numbers VGT0056086-87 from which CHG may determine additional information responsive to this interrogatory.

Furthermore, below is an additional example of an incident of confusion. VGT reserves the right to supplement its response to identify additional incidents.

- One day when Mr. Eubanks was at a Choctaw casino, a diamond rewards member who is a regular high-stakes player, complained to Mr. Eubanks about a game malfunctioning and/or not entering its red screen free spin bonus mode as often as he thought it should be. Mr. Eubanks believes the player said something about the game being “one of your new ones.” When Mr. Eubanks walked over to the game to which the player was referring, Mr. Eubanks noticed that the game was made by CHG. Mr. Eubanks believes that the player’s name is Robert Bearden. Mr. Eubanks believes that Mr. Bearden knows Mr. Eubanks works for VGT because Mr. Bearden had previously requested that Mr. Eubanks fix VGT games that were malfunctioning on several occasions and Mr. Bearden knows Mr. Eubanks by name.

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misappropriation of VGT's confidential business information, including damages based on the benefits CHG gained through the saved cost of development or otherwise.

Respectfully submitted,

August 3, 2018

/s/ Michael S. Sawyer

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CERTIFICATE OF SERVICE

I hereby certify that on August 3, 2018, I sent via email a true and correct copy of the foregoing PLAINTIFF'S SIXTH SUPPLEMENTAL OBJECTIONS AND RESPONSES TO DEFENDANT CASTLE HILL STUDIO LLC'S FIRST SET OF INTERROGATORIES (NOS. 1-13) to counsel of record for Defendants Castle Hill Studios LLC, Castle Hill Holdings LLC, and Ironworks Development LLC:

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